THE LICHTMAN LAW FIRM
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April 26, 2023

By ECF
The Honorable Judith C. McCarthy
United States Magistrate Judge
Southern District of New York
300 Quarropas St.
White Plains, New York 10601
McCarthy_NYSDchambers@nysd.uscourts.gov

      RE: *U.S. ex rel. Integra Med. Analytics LLC v. Isaac Laufer et al.*;
              Case No. 7:17-CIV-09424 (CS) Discovery Dispute

Dear Judge McCarthy:

      Paragon respectively submits this letter pursuant to the Courts Discovery Dispute

Order. Paragon provided the Government with ten specific interrogatory requests. The

Government provided virtually no subsidence responses. For example, Interrogatory 4

indicates, "Identify the 'former Paragon Administrator' referenced in Paragraph 54 of the

Complaint…". The Government refused to provide the name. Similarly, the Government

declined to identify the "Marketing Employees" or the "Director of Business Development of

Paragon" set forth in other paragraphs. The foregoing is merely illustrative.

      In December of Last Year, Paragon served twenty-six specific Demands for Production.

As of April 26, 2023, it has received documents responsive to only one of the twenty-six (26)

requests and those documents are all seemingly printed from the public internet. In February

Paragon served a second request for production consisting of thirty-five specific and, what it

believed to be, well defined request for Discovery. As of today's date, the Government has not

supplied a single document pursuant to that demand for production.

      In virtually every case the Government flat out refused to provide documents which

Paragon believes are necessary to its defense or required extensive negotiations in which it

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largely questioned why we needed documents that they did not utilize and ultimately produced

nothing. The Government took the position, for example, that it would not provide Paragon

with access to the requested CMS Medicare data that Paragon requested.

In the past five (5) months, the Government's stonewalling has crippled Paragon in its

ability to proceed with a Defense. The Discovery sought fits into a few buckets: details of the

claim(s) against Paragon; data necessary to assess whether the claim that the Facility

Defendants are outliers can be explained by variables not captured in a general analysis;

Information relevant to determining the correct standards for care/reimbursement;

Governmental knowledge concerning misuse of those standards; and documents concerning

why CMS changed reimbursement and what conduct it intended to encourage (such as to

encourage facilities to provide more therapy services).   [1]

Should the Government not make a sincere and immediate attempt to provide meaningful

discovery as requested, or agree to provide the same forthwith, Paragon respectfully requests

that it be permitted to make a motion to preclude the Government from: (1) utilizing testimony

from the Paragon employees not identified by it; (2) claiming that the Facilities are outliers; (3)

and refuting that it changed reimbursement in part as a response to the desire to increase therapy

usage and/or knew the rules relating to medical necessity were confusing and incapable of being

followed by its contractors or Facilities themselves.

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[1] CMS sells the data requested to third parties who are not in litigation with the Government.

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Respectfully Submitted,

/s/ Aaron Lichtman
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